In the High Court of Punjab and Haryana at Chandigarh.

Civil Revision No.6922 of 2006.
Date of decision:12.1.2007.

Gurmukh Singh Bahra.

...Petitioner.

Versus

Parmider Singh Suri.

...Respondent.

Coram: Hon'ble Mr. Justice S. N. Aggarwal.

...

Present: Mr.G.S.Sandhawalia Advocate for the petitioner

...

Judgment.

S. N. Aggarwal, J.

The petitioner was the owner of the demised property which was in possession of the respondent as a tenant. The petitioner claimed himself to be NRI. He filed an ejectment petition under Section 13-B of the East Punjab Urban Rent Restriction Act,1949 (in short Act of 1949) seeking ejectment of the respondent from the shop in dispute.

The respondent filed an application in the form of affidavit for leave to contest the petition. It was opposed by the petitioner but the learned trial Court after considering the whole matter granted permission to the respondent for contesting the petition vide impugned order dated 18.10.2006.

Hence, the present petition.

The submission of learned counsel for the petitioner was

that there was no ground for granting permission to the respondent-tenant for contesting the ejectment petition filed by the petitioner under Section 13-B of the Act of 1949). The perusal of the application filed by the respondent under Section 18-A of the Act of 1973 for leave to contest shows that it was pleaded in para (e) (Annexure P-4) as under:-

> **"e. That the petitioner has stated the wrong facts in the petition that the petitioner has no other suitable accommodation whereas one big shop of the petitioner is lying vacant since long and the petitioner is having the other suitable accommodation alongwith this property, the measurement of which is more than 8 Marlas (eight marlas). So the petitioner has not required the premises for his personal use and occupation."**
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> **The petitioner had given the following reply:-**
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> **"(e) Sub-para (e) is incorrect,therefore, denied. The demised premises is suitable accommodation for the petitioner and the landlord is the best judge of his necessity and the necessity is to be seen by the petitioner that which property is suitable to him for his business purpose and the present shop in question is most suitable for the petitioner to start his business. It is wrong that one big shop of the petitioner is lying vacant since long. There is no vacant shop in possession of the petitioner."**

These pleadings clearly reveal that the respondent had taken the plea that one big shop of the petitioner is lying vacant since long. Although it was denied in the corresponding paragraph by the

petitioner but the denial does not appear to be cogent. It appears that the petitioner has insisted only on the ground that he is the best judge to choose as to which shop was more suitable for him to run the business but it is a matter of evidence.

The learned counsel for the petitioner also drew the attention of this Court to photograph, Annexure P-7 and submitted that the shop referred to by the respondent was not a shop and it was only a garage and,therefore, no shop can be run by the petitioner in the said garage.

This submission has been considered. The petitioner has not taken the plea in the written reply if he did not have any shop or if it was a garage which could not be used as a shop. To some extent, the respondent was right when he alleged that some adjoining shop was lying vacant. It is a different thing that the landlord alleges the same to be garage but this fact was not pleaded by him in the written reply while controverting the facts alleged by the respondent. It is again a matter of evidence that the garage is not sufficient for the landlord.

The trial Court, therefore, rightly granted permission to the respondent to contest the ejectment petition. There is no merit in the present petition and the same is dismissed.

Since it is a case of ejectment on the ground of personal necessity, therefore, the learned trial Court is directed to decide the ejectment petition expeditiously and preferably within a period of nine months.

January 12,2007. **(S. N. Aggarwal)**
Jaggi **Judge**